

MEETING SUMMARY for MERCURY WORK GROUP

Date: April 9, 2003
10:00 am –12:00 pm
Location: 2525 North Shadeland Avenue
Conference Room K
Indianapolis, IN

Present at the meeting:

John Chavez (City of Indianapolis), John Fekete (Ispat Inland), Eric Fry (B.B. Coal), Tom Neltner (IKE), Cyndi Wagner (Whittman Hydro Planning Associates), and Paula Yeager (Indiana Wildlife Federation).

Participating by way of conference call were Morris Beaton (EPA), Robin Garibay (The Advent Group), Matt Gluckman (EPA), Kevin Hoge (Nisource), Tim Lohner (AEP), and Charlotte Read (environmental representative).

Representing IDEM were Tim Method, Bruno Pigott, Martha Clark, John Donnellan, Meredith Kostek, Steve Roush, and MaryAnn Stevens.

Acceptance of meeting minutes

The meeting minutes from the March 3, 2003 meeting were accepted by the workgroup. The minutes are posted on the IDEM, Office of Water Quality's Mercury website, a part of the total Triennial Review website.

Discussion topics

1. Discussion ensued about whether the water board can include requirements concerning air emissions. As a result of the discussion, John Nixon, of IDEM's Office of Legal Council, is writing up his thoughts and legal conclusions about this issue with the intention of presenting the legal opinion at the next workgroup meeting.
2. The update about the mercury workgroup that Tim Lohner gave to the Triennial Review Steering Committee on March 19, 2003 was discussed. The update stated that the workgroup has not reached consensus about whether to recommend a streamlined variance program be developed; Tom Neltner questioned the validity of this statement. The remainder of the workgroup meeting seemed to prove the point made by the statement.
3. Discussion occurred regarding mercury dischargers (POTWs) being at risk of lawsuit when out of compliance with NPDES permit limits. A permittee has ninety (90) days after a NPDES permit is issued to file for an individual variance. Currently, dischargers are in a difficult position of not knowing what to do since they cannot meet the mercury limit but don't know what action they can take. Dischargers are in need of a process to follow, such as a variance request, until the limit can be met. Also to be considered is whether a variance is going to produce an end result that is better than can be achieved through issuing a compliance schedule with the NPDES permit.

4. Tim Method contributed that it is the work of the workgroup to determine how specific a rule might need to be in requiring pollution prevention and minimization. A rule dealing with mercury could be more specific in its requirements than the current NPDES and implementation rules. Matt Gluckman added that a mercury variance rule should be structured so that a discharger puts more resources into pollution prevention and minimization rather than into applying for an individual variance.

5. Considerable discussion at this workgroup meeting and continuing later through e-mail was conducted about the ability to administratively extend a NPDES permit that has a mercury variance included with it. Opinions differ about what the state should do in this regard; however, having never issued a variance, the situation has not been tested. Charlotte Read quoted Nancy King as having said that a mercury variance would be administratively extended along with the NPDES permit. This concerns Charlotte as to how a mercury variance would be effective in producing an incentive to reduce mercury from discharges.

6. The draft first notice was discussed, and it was agreed that the workgroup members would submit their comments on the notice by April 21, 2003. The plan is still to submit the first notice to the Indiana Register for publication in the June 1st edition. The group is in unison on having a sixty (60) day comment period. It is during this time that the group intends to begin drafting variance requirements for the rule.

To Do List

- Disseminate the Quick Silver Study and place it on the mercury website.
- Investigate the question about administratively extending a variance when a NPDES permit expires and is extended.

Next meeting

The next meeting is scheduled for May 8, 2003, from 9:00 to 11:00 A.M., at IGCN, Twelfth Floor, Conference Room D.